

REMARKS

This is in response to the Office Action mailed October 21, 2003. Claims 2, 4, and 5 are withdrawn. Claims 20-64 are cancelled with prejudice. Claims 1, 7, 10, 13, 15, 17 and 18 have been amended. Claims 1-19 are pending in the application.

For the Examiner's convenience and reference, Applicants' remarks are presented in the order in which the corresponding issues were raised in the Office Action.

I. Objections to Claims

The Examiner objects to claims 1, 10, 13, and 15 for minor grammatical/topographical errors. Applicants appreciate the Examiner's careful review of the claim language and amend the claims according to the Examiner's suggestions. Withdrawal of the objections to the claims is therefore respectfully requested.

II. Rejections Under 35 U.S.C. § 112, Second Paragraph

Claims 1-19 are rejected under 35 U.S.C. § 112, second paragraph as being indefinite. Specifically, the Examiner states that the plant "Prunella Linn" recited in the claims is not found in the art. The Examiner further requests Applicants to submit evidence showing that this particular plant is documented in the literature in order to overcome the rejection.

Applicants submit herewith a copy of a section of "FLORA" (1977), an authoritative publication by the Chinese Academy of Sciences (also called the Chinese Academic Sinica), volume 65, No. 2, pp.386-387. As shown on page 386 and indicated by an arrow therein, physical characteristics of plant Prunella Linn are described in Chinese. As shown on page 387 and indicated by Arrow 1 therein, geographic locations of plant Prunella Linn are described in Chinese, which, translated into English, reads, "There are approximately 15 species (some saying 7 species) [of this genus]. These species are similar to each other and grown in temperate zones of Europe and Asia, in tropical mountain areas, as well in northwestern part of Africa, and North America. In China there are 4 species and 3 variants thereof, among which one is cultivated".

An example of such a species of *Prunella* Linn, *P. grandiflora* (Linn) Jacq. is described in detail in the section marked with Arrow 2.

Since the plant *Prunella* Linn is well-documented in an authoritative publication such as "Flora" by the Chinese Academy of Sciences, one of ordinary skill in the art would understand the meaning of the term *Prunella* Linn as recited in the claims under 35 U.S.C. §112, second paragraph. Withdrawal of this ground of rejection is therefore respectfully requested.

The Examiner also rejects claims 3, 10, 17 and 18 for reciting "at least X%". Applicants amend these claims to specify that the term "at least X%" is based on the weight of the extract of the plant. Withdrawal of this ground of rejection is therefore respectfully requested.

The Examiner further rejects claims 7 and 19 for reciting "2 α , 19 α -dihydricursolic acid". Applicants amend these claims to specify the term to be "2 α , 19 α -dihydricursolic acid". Withdrawal of this ground of rejection is therefore respectfully requested.

III. Rejections Under 35 U.S.C. § 112, First Paragraph

Claims 1-19 are rejected under 35 U.S.C. §112, first paragraph as failing to comply with the enablement requirement. Specifically, the Examiner states that it would require undue experimentation for one of ordinary skill in the art to practice the invention because the plant "*Prunella* Linn" recited in the claims is not found in the art. The Examiner states that this rejection can be overcome by submitting evidence showing that the plant *Prunella* Linn is known and documented in the art.

As described in detail in addressing the issue under 35 U.S.C. §112, second paragraph, Applicants submit herewith a copy of a section of "FLORA" (1977) by the Chinese Academy of Sciences, volume 65, No. 2, pp.386-387, to show that the plant *Prunella* Linn is known and well-documented in an authoritative publication. In view of the publication and the citations therein, one of ordinary skill in the art would be able to find and use the plant according to the specification of the present application under 35 U.S.C. §112, first paragraph. Withdrawal of this ground of rejection is therefore respectfully requested.

CONCLUSION

In light of the remarks and arguments set forth above, Applicants earnestly believe that they are entitled to a letters patent, and respectfully solicit the Examiner to expedite prosecution of this patent application to issuance. Should the Examiner have any questions, the Examiner is encouraged to telephone the undersigned.

The Commissioner is authorized to charge any additional fees which may required, including petition fees, or credit any overpayment to Deposit Account No. 23-2415 (Docket No. 25885-704).

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Respectfully submitted,

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FLORA

REIPUBLICAE POPULARIS SINICAE

DELECTIS FLORAE REIPUBLICAE POPULARIS
SINICAE AGENDAE ACADEMIAE SINICAE EDITA

Tomus 65 (2)

1977

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中国植物志

中国科学院中国植物志編輯委员会

第六十五卷

第二分册

科学出版社

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果时增大,外被平展短毛及混生微柔毛,有时尚有黄色腺体,脉纹明显,在各齿缺处两纵向脉相会成小疣,喉部微斜,齿5,小,后3齿卵形,长约1.3毫米,中间的一齿具针尖,前2齿长圆形,较狭,长约1.5毫米,果时后齿将其余4齿包裹。花冠紫蓝色,略超出花萼,长约5.5毫米,外面中部被白色疏柔毛,冠檐二唇形,上唇长0.7毫米,略内凹,先端2圆裂,内面具与边缘平行的弧形褶皱,下唇3裂,中裂片肾形,长约1.2毫米,宽约2.8毫米,先端微缺,边缘微有起伏,侧裂片圆形,极小。雄蕊4,内含,花丝具疏柔毛。花柱长约4.6毫米,先端2裂,前裂片下弯。子房裂片狭长圆形,长0.8—1毫米,宽0.2毫米。花盘黄色,环状,具4枚与子房裂片互生的小裂片。小坚果狭长圆形,腹面具棱,长2.3毫米,宽约1毫米,深褐色,无毛。花期5—6月,果期6月以后。

产新疆(天山北麓);生于山坡上或水沟边的较湿润处(在国外许多地方常为田间杂草出现)。苏联,伊朗至印度东部有分布。模式标本采自印度东部。

3. 野芝麻族——*Lamieae*

——*Stachydeae* Briq. in Engl. u. Prantl, Nat. Pflanzenfam.

4, 3a: 207. 1897; Boriss. in Fl. URSS 20: 493. 1954——*Stachydeae* Benth. Labiat. Gen. et Sp. 503. 1834, in DG. Prodr. 12: 407. 1848, et in Benth. et Hook. f. Gen. Pl. 2: 1168. 1876, p. p. maj.

1. 夏枯草亚族——*Subtrib. Brunellinae* Briq.

Briq. in Engl. u. Prantl, Nat. Pflanzenfam. 4, 3a: 207, 241. 1897; Boriss. in Fl. URSS 20: 493. 1954——*Scutellarinae* Benth. Labiat. Gen. et Sp. 416. 1834, p. p.——*Stachydeae* subtrib. *Scutellarieae* Benth. in DG. Prodr. 12: 407. 1846, et in Benth. et Hook. f. Gen. Pl. 2: 1168. 1876, p. p.——*Stachydeae* subtrib. *Brunellinae* Kudo in Mem. Fac. Sci. Agr. Taihoku Univ. 2: 247. 1929.

29. 夏枯草属——*Prunella* Linn.

Linn. Sp. Pl. 600. 1753——*Brunella* Moench, Meth. 414.

1794.

多年生草本,具直立或上升的茎。叶具锯齿,或羽状分裂,或几近全缘。轮伞花

序6花,多致聚集成卵状或卵圆状穗状花序,其下承以苞片,苞片宽大,膜质,具脉,瓦状排列,小苞片小或无,花梗极短或无。花萼管状钟形,近背腹扁平,不规则10脉,其间具网脉纹,外面上方无毛,下方具毛,内面喉部无毛,二唇形,上唇扁平,先端宽微形,具短的3齿,下唇2半裂,裂片披针形,果时花萼继续闭合,尖端向上(在干空气中,但在湿空气中则开放而平展)。冠筒向上逐渐一侧膨大,喉部稍为缢缩,常常伸出于萼,内面近基部有短毛及鳞片的毛环,冠檐二唇形,上唇直立,盔状,内凹,近龙骨状,在背上具毛或无毛,全缘,下唇3裂,中裂片较大,内凹,具齿状小裂片,侧裂片长圆形,反折下垂。雄蕊4,前对较长,均上升至上唇片之下,成对并列而离生,花丝尤其是后对先端2齿,下齿具花药,上齿超出花药或不明显呈瘤状,花丝基部无毛且无齿,花药成对靠近,二室叉分。花柱无毛,先端相等2裂,裂片钻形。花盘近平顶。小坚果圆形、卵圆形或长圆形,无毛,光滑或具瘤,棕色,具微脉或具二脉及中央小沟槽,基部有一锐尖白色着生面,先端钝圆。

1 ⇒ 约15种(或云仅7种),彼此相近,广布于欧亚温带地区及热带山区,非洲西北部及北美洲也有。我国产4种3变种,其中1种为引种栽培。

分种检索表

1. 花冠具有向上弯曲的冠筒,长20—27毫米,长约为花萼的3倍,最上方一对叶远离花序,因而花序明显具长梗,前对花丝不育齿短小而呈钝瘤状,花萼上唇3齿明显,小坚果近圆形,略具瘤状突起,在边缘及背面明显具沟纹……………4. 大花夏枯草 *P. grandiflora* (Linn.) Jacq. ← 2
 1. 花冠具直伸的冠筒,长均在20毫米以下,在花萼的2倍以下,最上方一对叶紧接于花序呈苞叶状,花序具短梗或无梗,前对花丝不育齿超出花药,花萼上唇3齿不明显,小坚果卵圆形至长圆形,光滑。
 2. 植株各部明显具刚毛,花冠蓝紫色,上唇背上明显具一硬毛带……………3. 硬毛夏枯草 *P. hiopida* Benth.
 2. 植株各部具稀疏糙毛或近无毛,花冠紫、红紫、淡红至白色,上唇背部圆形,无毛或不明显具毛。
 3. 植株细弱,花冠略超出萼,长绝不达萼长之二倍,长约13毫米……………1. 夏枯草 *P. vulgaris* Linn.
 3. 植株粗壮,花冠明显超出萼很多,长约为萼长之二倍,长18—21毫米……………2. 山密聚 *P. asiatica* Nakai
1. 夏枯草(本经) 麦穗夏枯草、铁线夏枯草(云南丛书,植物名实图考),麦夏枯、铁线夏枯(滇南本草),夕句、乃东(本经),燕面(别录),铁色草(本草纲目),滁州夏枯草(大明一统志,植物学大辞典),牯牛岭(亨利植物名录),丝线吊铜钟(广东),毛虫药